UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

                    Plaintiff,

                                                               DECISION and ORDER

-vs-

                                                               10-cr-6205 CJS

ALLEN SNYDER,

                    Defendant.

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On October 18, 2010, this case was referred by text order of the undersigned to Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. § 636(b)(1)(A)-(B), ECF No. 2. On January 18, 2011, Defendant filed an omnibus pretrial motion, ECF No. 48, seeking, *inter alia*: suppression of tangible evidence seized from 13770 Savannah Springs Lake Road, Savannah, New York, pursuant to a search warrant issued by Wayne County Court Judge, Honorable John B. Nesbitt on April 12, 2010, on the grounds that the application failed to establish probable cause and that the information contained in the application was stale; and dismissal of the indictment for duplicity. On December 27, 2011, Magistrate Judge Payson filed a Report and Recommendation ("R & R"), ECF No. 126, recommending that the Court deny both Defendant's motion to suppress physical evidence and Defendant's motion to dismiss the indictment for duplicity. Defendant timely filed objections to the R & R on January 19, 2012, ECF No. 130.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a *de novo* determination of those portions of the R & R to which objections have been made. Upon a *de novo* review of the indictment, as well as the search warrant issued by Judge Nesbitt and supporting application, and after considering the Defendant's objections, the Court accepts the proposed findings and recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Payson's Report and Recommendation ECF No. 126, defendant's application to suppress physical evidence seized from 13770 Savannah Springs Lake Road and his application to dismiss the indictment for duplicity are denied.

IT IS SO ORDERED.

Dated: February 21, 2012
         Rochester, New York

                              ENTER:

                              /s/ Charles J. Siragusa
                              CHARLES J. SIRAGUSA
                              United States District Judge